



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/501,119

07/12/2004

Svein Myhre

PIP3-PT001

5693

3624 7590 05/12/2008

VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER

MCKINLEY, CHRISTOPHER BRIAN

ART UNIT

PAPER NUMBER

3781

MAIL DATE

DELIVERY MODE

05/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/501,119	Applicant(s) MYHRE, SVEIN	
	Examiner CHRISTOPHER B. MCKINLEY	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-3,5-8,10-17,19-24,26-29,38 and 39 is/are pending in the application.
- 4a) Of the above claim(s) 30-37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,10-17,19-24,26-29,38 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/19/2007</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of 1-3, 5-8, 10-17, 19-24, 26-29, 38 and 39 in the reply filed on 2/11/2008 is acknowledged. The traversal is on the ground(s) that Groups 1 and 2 relate to a single inventive concept and that the Examiner has already examined claims subject to an Election. This is not found persuasive because the restriction requirement was issued on the basis that the inventions lacked unity because the common special technical feature, hinged guarantee closure, does not make a contribution over the prior art. Examiner did in fact examine claims 1 and 6 previously but without the presence of the limitation including the apparatus. As such the claim was subjected to an Election. The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 38 and 39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Claims 38 and 39 recite the limitations "further comprising the step of dividing the mould chamber into two chamber parts, a first chamber part in which the cap is formed and a second chamber part in which the ring member is formed." in line 1. Although the

claim is dependent on claim 1, a method of making a guarantee closure, the claim appears to be drawn to an apparatus used in making said closure. As such it is unclear what Applicant is claiming.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-3, 5-8, 10-17, 19-24 and 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubach (5,558,239) in view of Leach (2,961,119) in view of Schumacher (5,540,343). Dubach discloses the limitations of the claims including a hinged guarantee closure for a container (figs. 1-9) comprising a cap (fig. 5) having an integral closing member (2), a ring member (1), a hinge element (3) made on the periphery of the cap, said ring having a coupling part/internal circumferential snap edge (9), a container having circumferential groove (fig. 5, 23) such that the snap edge on the ring member is pressed into the circumferential groove, the cap and ring member (fig. 4) have the similar external diameters, spring element (3, inherent in snap hinges), concave hinge (fig. 3, 3) on an indented portion of the cap (fig. 4). Dubach does not have the closure being injection molded, a guarantee connection or a collapsible core. However, Leach teaches a guarantee connection (32) positioned diametrically opposite

a hinge (17) such that it is clear whether the connection has been broken thereby providing a tamper indicating means. Schumacher teaches a method characterized in that a closure is formed by injection molding along with a core (col. 2, line 13) for the purpose of providing a simple and economical means of manufacturing said closure. Therefore it would have been obvious to one having ordinary skill in the art at the time of invention to have modified Dubach with the aforementioned structural features and method in order to provide a tamper indicating means and a simple and economical means of manufacturing said closure.

Response to Arguments

7. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the

claims.” Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER B. MCKINLEY whose telephone number is (571)272-3370. The examiner can normally be reached on Monday-Thursday, 7:00 AM - 5:30 PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. B. M./

Application/Control Number: 10/501,119

Page 6

Art Unit: 3781

Examiner, Art Unit 3781

/Anthony D Stashick/

Anthony Stashick

Supervisory Patent Examiner, Art Unit 3781